

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

WILLIAM LLOYD ALFRED, JR.,

2:13-CV-519 JCM (VCF)

Plaintiff(s),

v.

DOUG E. GILLESPIE, et al.,

Defendant(s).

ORDER

Presently before the court are the report and recommendation of Magistrate Judge Ferenbach. (Doc. # 10). No objections have been filed even though the deadline date for filing objections has passed.

Plaintiff has filed an amended complaint in this action (doc. # 8) which contains a claim identical to a prior version that was dismissed by the court. Magistrate Judge Ferenbach recommends that this claim be stricken from the complaint, rather than forcing the plaintiff to file an additional amended complaint. (Doc. # 10).

This court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge’s report and recommendation, then the court is required to “make a de novo determination of those portions of the [report and recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1).

...

1 Where a party fails to object, however, the court is not required to conduct “any review at all
2 . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985).
3 Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate
4 judge’s report and recommendation where no objections have been filed. *See United States v.*
5 *Reyna–Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the
6 district court when reviewing a report and recommendation to which no objections were made); *see*
7 *also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit’s
8 decision in *Reyna–Tapia* as adopting the view that district courts are not required to review “any
9 issue that is not the subject of an objection.”). Thus, if there is no objection to a magistrate judge’s
10 recommendation, then this court may accept the recommendation without review. *See, e.g.,*
11 *Johnstone*, 263 F. Supp. 2d at 1226 (accepting, without review, a magistrate judge’s recommendation
12 to which no objection was filed).

13 Nevertheless, this court finds it appropriate to engage in a de novo review to determine
14 whether to adopt the recommendation of the magistrate judge. Upon reviewing the recommendation
15 and underlying briefs, this court finds good cause appears to ADOPT the magistrate judge’s findings
16 in full.

17 Accordingly,

18 IT IS HEREBY, ORDERED, AND DECREED that the report and recommendation of
19 Magistrate Judge Ferenbach (doc. # 10) are ADOPTED in their entirety.

20 IT IS FURTHER ORDERED that count two of plaintiff William Alfred’s complaint (doc.
21 # 9) is STRICKEN.

22 DATED March 13, 2014.

23
24 
25 UNITED STATES DISTRICT JUDGE